

1999 Legislative Summary

During the first year of the 1999–2000 legislative session, the Legislature and Governor enacted some 85 bills that affect the courts and are of general interest to the legal community. Brief descriptions of these measures follow, arranged according to code section affected. Designators indicate whether the measure is of primary interest to judges and/or court administrators in trial courts (T) or appellate courts (A).

The effective date of legislation is January 1, 2000, unless otherwise noted. Urgency measures normally take effect upon enactment, and some measures have delayed operative dates. Those dates are included where applicable.

The bill descriptions are intended to serve only as a guide to identifying bills of interest; they are not a complete statement of statutory changes. Code section references are to the sections most directly affected by the bill; not all sections are cited.

Until the annual pocket parts are issued, bill texts can be examined in their chaptered form in *West’s California Legislative Service* or *Deering’s Legislative Service*, where they are published by chapter number.

Chaptered bills and legislative committee analyses can be accessed at www.leginfo.ca.gov/bilinfo.html on the Internet. Individual chapters also may be ordered directly from the Legislative Bill Room, State Capitol, Sacramento, CA 95814, 916-445-2323.

RESOLUTION

JUVENILE DEPENDENCY:
COURT ADOPTION
AND PERMANENCY
MONTH T
ACR 86 ARONER, RES. CH. 119
Proclaims November 1999 to be “Court Adoption and Permanency Month,” a period during which the courts and their constituent local communities will join together to en-

gage in activities including Saturday adoptions, evening adoptions, and other activities to expedite permanent placement of children. Similar to resolution adopted by the Judicial Council in August 1999.

BUSINESS AND
PROFESSIONS CODE

STATE BAR DUES T
SB 144 SCHIFF, CH. 342
B&P 6008.6, 6031.5, 6068,
6070, 6085, 6140, 6140.05,
6145
Among other provisions, authorizes the State Bar to collect \$318 as membership dues for the year 2000, in addition to ongoing authority to collect \$77, for a total dues bill of \$395. Provides a 25 percent fee reduction if the lawyer’s gross family income is less than \$40,000, and a 50 percent reduction if the gross income is less than \$25,000. Reduces the mandatory continuing legal education (MCLE) requirement from 36 hours in 36 months to 25 hours every 36 months, and requires the State Bar to develop low-cost or no-cost options for fulfilling self-study requirements. Repeals the exemption for retired judges from the MCLE requirement. Makes the Conference of Dele-

gates and the State Bar Sections self-funding (not funded by mandatory dues), but allows the Bar to collect voluntary fees on their behalf and to provide administrative support services at cost. Allows members to deduct \$5 from their dues if they do not want their dues used by the State Bar to lobby on legislation, and limits the State Bar’s use of mandatory dues on lobbying and related activities to an amount specified by formula.

CIVIL CODE

SEXUAL
HARASSMENT T
AB 519 ARONER, CH. 964
CIV 51.9
Revises the cause of action for sexual harassment by extending it to verbal, visual, or physical conduct of a sexual nature, requiring the conduct to be pervasive rather than persistent, deleting the requirement that the conduct continue after a request by the plaintiff to stop, and specifying that the cause of action applies to an injury involving emotional distress or violation of a statutory or constitutional right. Also deletes the requirement that the complaint and answer be verified.

UNIFORM ELECTRONIC
TRANSACTION ACT T
SB 820 SHER, CH. 428
CIV 1633.1 et seq.
Provides that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form, nor may a contract be denied legal effect or enforceability solely because an electronic record was used in its formation. Also sets forth provisions governing changes and errors, the effect of electronic signatures, and admissibility of evidence.

INSURANCE CLAIMS:
DISPUTE RESOLUTIONS:
THIRD PARTY
CLAIMANTS T
AB 1309 SCOTT, CH. 721
SB 1237 ESCUTIA, CH. 720
CIV 2871; CCP 1778; INS
1063.1, 1872.91
As to specified third-party claimants, provides that where the amount in controversy is either for a dollar amount that does not exceed \$50,000, or is within policy limits if the policy limits do not exceed \$50,000, a claimant and the insurer may resolve the claim by arbitration pursuant to a written arbitration agreement.

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LITIGATION: REAL ESTATE TRANSACTIONS: TRUSTEES T

AB 431 DUTRA, CH. 974
CIV 2924 et seq.

Requires the court to grant a motion to cause a trustee who has filed a declaration of non-monetary status to re-enter the litigation. Makes other changes to provisions regarding real estate transactions, appraisers, and trustees.

CODE OF CIVIL PROCEDURE

STIPULATED REVERSALS A,T

AB 1676 ASSEMBLY
COMMITTEE ON JUDICIARY,
CH. 508
CCP 128

Abrogates *Neary v. Regents of UC* (1992) 23 Cal.4th 273 by prohibiting an appellate court from reversing or vacating a duly entered trial court judgment upon a stipulation of the parties unless the court finds that the procedure will not adversely affect the interests of nonparties or of the public, and that the reasons for requesting reversal outweigh specified public considerations.

SEXUAL ABUSE: STATUTE OF LIMITATIONS T

SB 674 ORTIZ, CH. 120
CCP 340.1

Makes the current statute of limitations for childhood sexual abuse cases against third parties retroactive, but states that the bill is not intended to revive cases where there has been a final adjudication prior to January 1, 1999.

SPECIAL MOTIONS TO STRIKE: APPEALS A,T

AB 1675 ASSEMBLY
COMMITTEE ON JUDICIARY,
CH. 960
URGENCY, EFFECTIVE:
10-10-99
CCP 425.16, 904.1

Provides that an appeal may be taken directly from a special motion to strike a cause of action against a person arising from any act of that person in furtherance of their right to free speech in connection with a public issue, i.e., a strategic lawsuit against public participation. Also requires any party who files or opposes such a special motion to strike to promptly transmit various documents to the Judicial Council by e-mail or fax, and requires the Judicial Council to maintain a public record of this information.

CIVIL PRACTICE (OMNIBUS BILL) T

AB 1672 ASSEMBLY
COMMITTEE ON JUDICIARY,
CH. 892
CCP 995.710, 1260.250, 2025;
GOV 68511.3; B&P 6400, 6401,
6401.6, 6405, 6411, 22350,
22351, 22351.5, 22353, 22357;
FAM 2331; W&I 319.1

Among other provisions, requires a fee waiver applicant who is indigent and who, for purposes of verification, chooses to voluntarily provide the court with their social security number, to also provide their date of birth and, if they have no social security number, their Medi-Cal identification number. Clarifies the right to depose a party more than once. Corrects inadvertent error in prior legislation by reinstating the right of an appellant in an undertaking appeal to make a cash deposit with the court in lieu of a bond. Makes changes to statutes governing registration of process servers in relation to (1) employees of registered photocopyers, (2) those with prior felony convictions, and (3) a cash alternative to the \$25,000 bond requirement. Makes changes to statutes governing registration of legal document assistants in relation to assistants employed by a partnership or corporation.

OFFERS TO COMPROMISE: EXPERT WITNESS COSTS A,T

SB 1161 SENATE COMMITTEE
ON JUDICIARY, CH. 353
CCP 998

Authorizes the court or arbitrator to require the party rejecting an offer to pay the offering party's costs of services of expert witnesses, as specified.

NOTICED MOTIONS: TIMELINE T

AB 1132 ACKERMAN, CH. 43
CCP 1005

Revises existing timelines for filing motions by requiring a party to serve and file all moving and supporting papers at least 21, instead of 15, calendar days before the hearing; all opposing papers at least 10 calendar, instead of 5 court, days before the hearing; and all reply papers at least 5 calendar, instead of 2 court, days before the hearing. Also revises the above provisions regarding the extension of time for service of notice by mail, facsimile, or overnight delivery by providing that the specified days of extension are calendar days.

ELECTRONIC FILING T

SB 367 DUNN, CH. 514
CCP 1010.6; GOV 6159

Among other provisions, requires the Judicial Council, by January 1, 2003, to adopt uniform rules for the electronic filing and service of court documents statewide not inconsistent with the provisions of this bill. Authorizes trial courts to adopt local rules relating to electronic filing and service consistent with the provisions of this bill. To the extent such

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rules are in conflict with Judicial Council rules, local rules will be superseded. Provides that a document that is filed electronically has the same legal effect as an original paper document filed with the court. If a document requires the signature of an attorney or person filing in pro per, and the document is filed electronically, deems the document signed by the appropriate person. Specifies signature requirements for documents required to be signed by any person under penalty of perjury. Deems a document filed electronically after the close of business to have been filed the next court day. Requires the court, upon receipt of a document filed electronically, to issue a confirmation that the document has been received by the court and filed. Authorizes the court to electronically transmit a summons to a party. Authorizes electronic service when a party has agreed to such service. Authorizes a court to accept credit card payments upon approval of the Judicial Council rather than each county's board of supervisors.

PUBLIC AGENCY DECISIONS: EXPEDITED JUDICIAL REVIEW T

SB 1165 SHER, CH. 49
URGENCY, EFFECTIVE:
06-28-99
CCP 1094.8

Sets forth an expedited procedure for judicial review of decisions by a local public agency regarding the issuance, revocation, suspension, or denial of a business permit involving expressive conduct protected by the First Amendment of the United States Constitution. Requires the court to render its decision in an expeditious manner consistent with constitutional requirements, but in no event later than 20 days after submission of the matter or 60 days after the filing of the petition, whichever is earlier.

EMINENT DOMAIN T

SB 634 KELLEY, CH. 102
CCP 1250.410, 1258.220

Revises time periods within which various documents must be exchanged in eminent domain proceedings, absent an agreement.

MEDIATION PILOT PROJECT: DELAY REDUCTION T

AB 1105 JACKSON, CH. 67
URGENCY, EFFECTIVE:
07-06-99
CCP 1730; GOV 68616

Requires the Judicial Council to select four superior courts to

participate in early mediation pilot program. Remains in effect until January 1, 2004. Requires the Judicial Council to report to the Legislature and the Governor regarding these pilot programs on or before January 1, 2003. Also excepts complex cases from civil trial court delay reduction case conference deadlines until January 1, 2004. Also requires the Judicial Council to submit a report to the Legislature and the Governor, on or before October 30, 2002, regarding the effectiveness of the Centers for Complex Litigation, which were established in the Budget Act of 1999.

SUBPOENAS: PERSONAL RECORDS T

AB 794 CORBETT, CH. 444
CCP 1985.3, 1985.6, 2020; EVI 1560 et seq.; LAB 4055.2

Revises and expands the definition of "personal records" and "employment records" related to subpoena duces tecum to include electronic data, and expands the definition of "witness" to include various health care professionals and post-secondary schools. Deletes the requirement that the date specified on the subpoena duces tecum for the production of personal records or employment records be not less than 15 days from the date the subpoena is issued. Also provides that when a subpoena duces tecum commands the production of business records for copying, specific information identifiable only to the deponent's records system shall not be required. Makes other changes with respect to the production of business and employment records for inspection or copying.

DISCOVERY: INSPECTION DEMANDS T

SB 447 DUNN, CH. 48
CCP 2031

Authorizes supplemental demands for inspection of any later acquired or discovered documents, tangible things, land, or other property.

CORPORATIONS CODE

LIMITED PARTNERSHIPS T

AB 197 ACKERMAN, CH. 250

CORP 15677 et seq. Provides for the conversion of limited partnerships into other business entities.

EVIDENCE CODE

HEARSAY EXCEPTIONS: ELDER AND DEPENDENT ADULTS T

AB 526 ZETTEL, CH. 383
EVI 1380

Creates an exception to the hearsay rule for certain statements of elder and dependent adults who are victims of abuse.

FAMILY CODE

FAMILY LAW: CHILD CUSTODY AND SUPPORT (OMNIBUS BILL) T

AB 1671 ASSEMBLY COMMITTEE ON JUDICIARY, CH. 980

FAM 126, 215, 243, 3011, 3020, 3021, 3046, 4065, 4508, 5000, 5001, 5002, 6341, 17400, 17523; R&T 19271.6, 19272, 19273; W&I 213.5, 11350.75, 18205

Makes several changes to child custody, child support, and domestic violence statutes of technical and conforming nature. Judicial Council cleanup provisions address clarification of terms, modification of paternity judgments, service requirements, and the court's authority to make support orders.

DOMESTIC VIOLENCE: PROTECTIVE AND RESTRAINING ORDERS T

AB 825 KEELEY, CH. 661
FAM 145, 6221, 6380, 6380.5, 6381, 6383; CCP 527.6, 527.8; PEN 136.2, 13701, 13711; W&I 213.5

Provides that only protective and restraining orders issued on forms adopted by the Judicial Council and approved by the Department of Justice may be transmitted to the statewide restraining order system. Renames the Domestic Violence Protective Order Registry as the Domestic Violence Restraining Order System. Provides that failure of a court to issue an order on a Judicial Council-approved form does not render the order unenforceable.

DOMESTIC PARTNERS T

AB 26 MIGDEN, CH. 588
FAM 297 et seq.

Defines domestic partners and provides procedures for the registration and termination of domestic partnerships with the Secretary of State. Specifies domestic partner hospital visitation rights. Provides an option for state and local public employers to extend health benefits to domestic partners under the Public Employees' Medical and Hospital Care Act (PEMHCA).

INDIAN CHILD WELFARE ACT T

AB 65 DUCHENY, CH. 275
URGENCY, EFFECTIVE: 09-01-99

FAM 305.5, 7810; W&I 360.6
Directs the courts to strive to promote the stability and security of Indian tribes and fami-

lies and to comply with the Indian Child Welfare Act in all Indian child custody proceedings. Requires that the federal act be applied in those proceedings if the tribe determines that a child is a member of the tribe or eligible for membership. Requires state and local authorities to provide notice to the tribe of the removal of an Indian child from the custody of his or her parents within one working day if the tribe has assumed exclusive jurisdiction over child custody proceedings. Requires the state to transfer child custody proceedings to the tribe within 24 hours of being notified that the child is an Indian child.

DISSOLUTION OF MARRIAGE: ATTORNEY'S FEES T

SB 357 ORTIZ, CH. 118
FAM 2040

Provides that a party who uses community or quasi-community property to pay an attorney a retainer for fees and costs shall account to the community for the use of the property. Provides further that if one party uses the separate property of the other party, the one party must account to the other for the use of that property.

CHILD CUSTODY: REPORTS OF CHILD ABUSE, SUPERVISED VISITATION T

SB 792 ORTIZ, CH. 985
FAM 3027.5, 3201; W&I 827

Prohibits a parent from being denied custody or visitation for lawfully reporting suspected abuse. Authorizes the court to limit custody or visitation rights of a parent who willfully makes a false report of child abuse. Requires that court-ordered supervised visitation be conducted in accordance with standards adopted by the Judicial Council.

CHILD CUSTODY: REBUTTABLE PRESUMPTION T

AB 840 KUEHL, CH. 445
FAM 3044

Creates a rebuttable presumption against an award of sole or joint physical or legal custody of a child to a parent who has perpetrated domestic violence against the other parent within the past five years. Sets forth factors to overcome the presumption.

CHILD CUSTODY: EVALUATOR STANDARDS T

SB 433 JOHNSON, CH. 932
FAM 3110.5, 3111

Requires the Judicial Council to adopt a rule of court by January 1, 2002, that establishes training, education, and licensure requirements for court-connected and private child custody evaluators. After January 1, 2005, all private evaluators must have one of certain specified licenses, and court-connected evaluators must meet all qualifications established by the Judicial

Council. Provides for exemption if the court finds that a qualified evaluator is not available to the court. Authorizes the court to appoint a child custody evaluator in contested custody proceedings.

UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT T

SB 668 SHER, CH. 867
FAM 3135, 3400 et seq.

Renames the Uniform Child Custody Jurisdiction Act as the Uniform Child Custody Jurisdiction and Enforcement Act. Provides an exclusive jurisdictional basis for making an initial child custody determination and allows a court to assume temporary emergency jurisdiction in specified circumstances. Expands provisions relating to the enforcement of out-of-state child custody decrees. Requires the Judicial Council to report to the Legislature by January 1, 2003, on the effect of the implementation of this act.

SUPERVISED VISITATION AND EXCHANGE; PARENT EDUCATION; COUNSELING T

AB 673 HONDA, CH. 1004
FAM 3202, 3204

Permits the family law division of the superior court to establish and administer supervised visitation and exchange programs, parent education programs, and counseling programs for families. Requires the Judicial Council to submit annual applications for federal funding for these programs. Requires the Judicial Council to report to the Legislature on funded programs on March 1, 2002, and on the first day of March annually thereafter. Repeals the Friend of the Court Act.

SUPPORT ORDERS: MODIFICATION, SET ASIDE, ENFORCEMENT T

AB 380 WRIGHT, CH. 653
FAM 3652, 3653, 3654, 3690, 4009, 7575, 7642, 17212, 17400.5, 17401, 17402, 17433, 17521, 17530; PEN 166.5; W&I 11350

Authorizes the court to set aside all or part of a support order or a paternity order on the grounds of fraud, perjury, or lack of notice. Repeals prohibition against hardship deduction when child is receiving public assistance. Limits welfare reimbursement in cases brought by the district attorney to one year prior to the filing of the complaint. Provides that an initial support order may be made retroactive to the date of filing. If service is more than 90 days from the date of filing and the court finds that the obligor was not evading service, support may commence no earlier than the date of service. In cases brought by the district attorney in which defendant defaults, support commences on the first day of the month after complaint is filed. Gives the court discretion to deter-

mine whether and under what terms and conditions a child support obligee must repay the obligor any amounts previously paid in excess of a support order modified retroactively.

CHILD SUPPORT: FAMILY LAW FACILITATORS, VOLUNTARY PATERNITY, DEFAULT JUDGMENTS T

SB 240 SPEIER, CH. 652
FAM 3680.5, 5005, 7551.5, 7552.5, 7571, 7572, 7575, 10003, 10004, 10005, 10013, 10014, 10015, 17405, 17407, 17430, 17506, 17508, 17509, 17520; B&P 30; CCP 708.780

Permits family law facilitators to provide services on child custody and visitation issues, if the court adopts local rules. Also provides that the family law facilitator shall not represent or have an attorney-client relationship with any party and that all communications between parties and a family law facilitator, or all persons employed by or working with the facilitator, are not privileged. Prohibits the family law facilitator from making public comments about individual cases pursuant to the Code of Judicial Ethics. Appropriates an additional \$2.1 million for the family law facilitator program. Makes various amendments to voluntary declaration of paternity declaration statutes, including giving courts access to database. Amends default procedure to clarify that default is to be entered without further hearing or presentation of evidence.

SPOUSAL SUPPORT: CONSIDERATION OF EMOTIONAL DISTRESS T

AB 808 STROM-MARTIN, CH. 284
FAM 4320

Directs the family court, when ordering spousal support, to consider any emotional distress resulting from domestic violence perpetrated against the supported party by the supporting party where the court finds documented evidence of a history of domestic violence.

SPOUSAL SUPPORT T

AB 391 JACKSON, CH. 846
FAM 4320, 4330

Grants courts the discretion to order a party to pay spousal support for a greater or lesser period of time than one-half the length of the marriage. Permits, but does not require, courts to issue an admonition ("Gavron warning") concerning reasonable efforts to become self-supporting.

ELDER OR DEPENDENT ADULTS: ABUSE: PROTECTIVE ORDERS T

AB 59 CEDILLO, CH. 561
FAM 6250-6252, 6380; W&I 15657.03

Sets forth procedures under which an elder or dependent adult who has suffered physical or emotional abuse may seek protective orders. Requires that protective orders to prevent elder abuse be entered in

the domestic violence restraining order system. Requires the Judicial Council to promulgate forms, instructions, and rules of court.

DOMESTIC VIOLENCE: TRANSLATION OF FORMS, FIREARM RESTRICTIONS

T

*SB 218 SOLIS, CH. 662
FAM 6304, 6343, 6380.5, 6389; CCP 185; H&S 124251; PEN 166, 273D, 273.5, 273.6, 836, 1328, 11163.3, 11163.6, 12021, 12028.5*

Authorizes the court to provide unofficial translations of domestic violence restraining order forms. Requires the Judicial Council to provide translation of domestic violence order forms as appropriate. Prohibits subject of a restraining order from owning, possessing, or purchasing a firearm and requires relinquishment of firearms. Exempts peace officers from this requirement. Enhances penalties for various violations of restraining orders. Authorizes the court with jurisdiction over a case to appoint a guardian ad litem to receive service of a subpoena of a child and power to produce the child. Authorizes disclosure by the domestic violence death review team of otherwise confidential or privileged information regarding the victim or any other information deemed relevant to members of that team.

MINORS: CONTRACTS

T

*SB 1162 BURTON, CH. 940
FAM 6752, 6753*

Regulates the disposition of earnings of an unemancipated minor who is under a contract for artistic or creative services. Gives the court continuing jurisdiction over all approved contracts and trust funds until the account is terminated.

FAMILY LAW INFORMATION CENTERS

T

*SB 874 ESCUTIA, CH. 886
FAM 15010*

Extends by one year the family law information center pilot projects in three counties. Requires the Judicial Council to select the courts in which the pilots will operate. Deletes the existing confidentiality provision and replaces it with a prohibition against public comments about individual cases pursuant to the Code of Judicial Ethics.

CHILD SUPPORT ENFORCEMENT REFORM

T

*SB 542 BURTON, CH. 480
FAM 5208, 5212, 5234, 5246, 17000 et seq.; R&T 19271, 19272, 19275; UI 1088.8; W&I 18205*

Part of a major child support enforcement reform package. Strengthens the role of the Franchise Tax Board (FTB) in collecting past due child support and requires a single statewide child support collections system under the supervision of a new Department of Child Support Services. Major provisions in the bill include phasing in the new child sup-

port system over three years beginning January 1, 2001; giving the FTB statewide responsibility for collection of all delinquent child support payments; and clarifying the direct oversight by the director of the new department over the child support functions of local agencies.

CHILD SUPPORT ENFORCEMENT REFORM

T

*AB 196 KUEHL, CH. 478
FAM 17000 et seq.; GOV 12803; R&T 19271, 19533; UI 1088.8; W&I 11476.6, 11476.13, 11477, 11477.02, 11477.04, 11479, 11485*

Part of a major child support enforcement reform package. Establishes the Department of Child Support Services, which would replace the Department of Social Services as the state Title IV-D child support enforcement agency. Creates new county departments of child support services and requires that the local Title IV-D child support program be transferred from the district attorney to the new departments by January 1, 2003. Changes the funding structure of the local child support departments.

CHILD SUPPORT AUTOMATION SYSTEM

T

*AB 150 ARONER, CH. 479
URGENCY, EFFECTIVE: 09-07-99
FAM 10080, 17710*

Part of a major child support reform package. Requires the new state department responsible for child support enforcement to procure, develop, implement, and maintain the operation of the California Child Support Automation System in all California counties.

CHILD SUPPORT: STATE ADMINISTRATIVE HEARING

T

*AB 472 ARONER, CH. 803
FAM 17401, 17800 et seq.; W&I 10950, 10951, 10963, 18242, 18243*

Permits custodial and noncustodial parents to request a state administrative hearing to consider a parent's claim about a state or county child support agency's actions (or inaction) relating to child support collections, procedures, and services. Specifies that child support matters subject to the jurisdiction of the superior court, or required by law to be brought by motion or appeal, may not be addressed in a state administrative hearing. Also amends child support assurance demonstration projects.

CHILD SUPPORT

T

*AB 370 WRIGHT, CH. 654
FAM 17520, 17525; W&I 11476.3*

Once the statewide automation system is in place, requires a notice of support delinquency to state the date upon which the delinquency amount was calculated and notifies the obligor if the amount includes interest. Requires notice to the obligor of his or her rights to an administrative determina-

tion of arrears. Requires any professional board that has received a release from the district attorney pursuant to the provisions of this code to process the release within five business days.

GOVERNMENT CODE

INTERNET WEB SITES:

GRANT INFORMATION

T

*AB 187 HERTZBERG, CH. 405
GOV 8333*

Establishes the Grant Information Act of 1999 to authorize state agencies to make available on their Internet Web sites a listing of all grants administered by that agency. Requires the Web sites to provide instructions on filing grant applications electronically or on how to download, complete, and mail grant applications to the state agency, or both. Authorizes each state agency to make available on its Internet Web site any grant application form used by the agency for grants administered by that agency.

RETIREMENT PLAN IMPROVEMENTS FOR STATE EMPLOYEES

A,T

*SB 400 ORTIZ, CH. 555
GOV 21354.1 et seq.*

Improves Tier I retirement benefits and allows employees under the Tier II plan to switch to Tier I.

FILING FEES: CHILDREN'S WAITING ROOMS

T

*AB 177 PAPAN, CH. 115
GOV 26826.3*

Provides that it is the policy of the state that each court endeavor to provide a children's waiting room in each courthouse. Until January 1, 2010, authorizes a county board of supervisors to impose a surcharge of not less than \$2 but not more than \$5 on specified filing and motion fees to defray the cost of establishing and maintaining such waiting rooms. States legislative intent that the surcharge be used to provide children's waiting room services for children whose parents or guardians attend court proceedings on an infrequent basis, either as parties or witnesses or for other court purposes, as determined by the court.

COURTS: UNIFICATION

T

*SB 210 SENATE COMMITTEE ON JUDICIARY, CH. 344
URGENCY, EFFECTIVE: 09-07-99*

GOV 26863; CCP 77, 116.950, 392 et seq., 403.010 et seq.; PEN 1214, 1238, 1382; R&T 19280

Makes conforming, technical, and other statutory changes necessary to implement Proposition 220 on trial court unification. Authorizes the Judicial Council to adopt rules of court providing for the qualifications of the presiding judge. Pro-

vides that the appellate division of the superior court may grant writs of prohibition and review directed to the superior court in limited civil cases as well as in a misdemeanor or infraction case. Provides that where the appellate division grants a writ of review directed to the superior court, the superior court is an inferior tribunal. Allows a civil action or proceeding, other than a limited civil case, to be referred to as an unlimited civil case, and makes other conforming changes.

COURTS: JUDGES' PAY PARITY, EMPLOYEE CLASSIFICATION

T

*AB 1673 ASSEMBLY COMMITTEE ON JUDICIARY, CH. 891
GOV 68547-75758, PEN 830.36*

Makes various changes relative to court staffing and employee classification and compensation in Humboldt, Kern, Kings, Los Angeles, and Orange Counties. Extends until December 31, 2000, provisions permitting municipal court judges to receive the compensation of superior court judges in counties where certain coordination criteria are met. Provides for the merger of the marshal and sheriff departments in Madera County. Authorizes all superior court commissioner and referee positions that were funded and filled as of January 1, 1999, that are not authorized under any other section of the Government Code. Revises and states legislative intent regarding provisions governing the continuation of economic and noneconomic benefits and the terms and conditions of employment of court personnel upon unification of the municipal and superior courts in a county, and provides that these provisions shall be retroactive to the date of unification.

RETIRED JUDGES: PRERETIREMENT SELECTION OF BENEFITS

A,T

*SB 976 PERATA, CH. 671
GOV 75071, 75080, 75094, 75590*

Allows judges who are eligible to retire to preselect a retirement benefit that allows the judge's survivor to receive the maximum benefit in the event the judge dies while in office. Allows a judge leaving office on disability retirement to earn income in occupations other than those similar to judging, including holding public office, and eliminates this restriction on earning income when a judge reaches retirement age. Provides that the retirement allowance of a judge would cease if he or she, following retirement for disability, engages in the practice of law or other gainful occupation that requires duties substantially similar to those the judge was found unable to perform due

to his or her disability. Adds the surviving adult children of a judge as elective recipients of the balance paid at death under an optional retirement settlement. Provides the same continuation of survivor benefits for judges who retired under the Judges' Retirement System (JRS II) as those who retired under the Judges' Retirement System (JRS).

HARBORS AND NAVIGATIONS CODE

VESSELS: ACCIDENT: FAILURE TO STOP T
AB 1151 LEACH, CH. 500
H&N 668
Increases the fine to a minimum of \$1,000 for failure of a vessel operator to furnish information, report an accident, or render assistance if that operator is involved in an accident and knows or has reason to know that the accident resulted in personal injury to another person.

LABOR CODE

FAMILY RIGHTS ACT: SICK LEAVE: EMPLOYEES A,T
AB 109 KNOX, CH. 164
LAB 233
Allows employee to use sick leave to attend to the illness of a child, parent, or spouse.

PENAL CODE

OBSTRUCTION OF JUSTICE; INFRACTION APPEALS T
SB 832 SENATE COMMITTEE ON PUBLIC SAFETY, CH. 853
PEN 96.5; CCP 77
Among a variety of changes, (1) limits the intent requirement for the offense of obstructing justice by a judicial officer to actual knowledge by deleting the language "or should have known," and eliminates reference in that provision to the "due administration of the laws"; and (2) authorizes one superior court judge, instead of three, to hear appeals from convictions of traffic infractions.

MURDER: PUNISHMENT A,T
AB 208 KNOX, CH. 566
PEN 190.03
Provides that the penalty for a defendant who is found guilty of murder in the first degree is life imprisonment without the possibility of parole if the victim was intentionally killed because of defendant's perception of the victim's disability, gender, or sexual orientation. Prohibits the court from striking the allegation, except in the in-

terest of justice, and requires the court to state its reasons in writing for doing so. Conforms with existing hate crime law.

ARSON: REGISTRATION OF CONVICTED ARSONISTS T
SB 555 KARNETTE, CH. 518
PEN 451.5, 457.1
Shifts responsibility from the court to the probation department for informing convicted arsonists of their registration requirement.

DOMESTIC VIOLENCE: CONFIDENTIAL RECORDINGS T
AB 207 THOMSON, CH. 367
PEN 633.6
Authorizes a judge issuing a domestic violence protective order to permit the victim to record otherwise prohibited communication made to him or her by the perpetrator. Requires the Judicial Council to amend its domestic violence prevention application and order forms accordingly.

CRIMINAL PROCEDURE: CAREER CRIMINAL PROSECUTIONS T
AB 501 NAKANO, CH. 382
PEN 1048.1, 1050
When scheduling a trial date at an arraignment in a case prosecuted pursuant to the Career Criminal Prosecution Program (CCPP), requires the superior court to make reasonable efforts to avoid setting the trial on the same day that another trial is set involving the same prosecuting attorney. Expands the grounds for good cause for a continuance of a trial to include a case prosecuted pursuant to CCPP when the prosecuting attorney has a hearing in that court or another court on a different case. Requires the attorney to notify the calendar clerk in writing within two court days of learning of a conflict. Authorizes the court to grant one continuance per case, not to exceed ten days. Incorporates changes pursuant to SB 69 (see SB 69).

CRIMINAL PROCEDURE: CONTINUANCES T
SB 69 MURRAY, CH. 580
PEN 1050
Adds stalking to the nonexclusive list of cases where a continuance may be granted upon a showing of good cause when the prosecuting attorney assigned to the case has another criminal proceeding in progress in that or another court. Authorizes the court to grant one continuance per case, not to exceed 10 court days.

BAIL: PROCEDURE T
AB 476 ACKERMAN, CH. 570
PEN 1166, 1305, 1305.4, 1308
Revises procedural requirements applicable to a defendant against whom a verdict is rendered and who is free on bail. New provisions require that the defendant may be remanded to the proper officer to await judgment unless the court, considering specified cri-

teria, concludes that the evidence supports the decision to allow the defendant to remain out on bail. Requires that a motion to vacate a forfeiture of bail that is filed within the 180-day filing period may be heard within 30 days of the expiration of that period. Authorizes the court to extend the 30-day period upon a showing of good cause and requires moving party to provide 10 days prior notice to prosecution as a condition to granting the motion. Increases the time period from 20 to 30 days during which a court or magistrate can accept any person or corporation as a surety on bail if any summary judgment against that party remains unpaid.

RESTITUTION ORDERS: COSTS OF MENTAL HEALTH THERAPY T
SB 1250 ESCUTIA, CH. 121
PEN 1202.4
Clarifies that the cost of mental health therapy for a victim is to be considered when determining restitution to be made by a defendant. Makes certain other provisions regarding restitution to victims of crimes.

CRIMINAL PROCEDURE: DISQUALIFICATION OF DISTRICT ATTORNEYS T
AB 154 CUNNEEN, CH. 363
PEN 1424
Revises procedural requirements applicable to a motion to disqualify a district attorney or city attorney. New provisions require that the notice be made at least 10 court days before the motion is heard and that the motion set forth grounds for disqualification and be supported by affidavits. Authorizes the district attorney or Attorney General, or both, to file affidavits in opposition to the motion, and requires the court to determine whether an evidentiary hearing is necessary.

PROBATE CODE

ESTATES: CLAIMS T
AB 1051 KALOOGIAN, CH. 263
PRO 104.5, 1214, 1218, 9053, 9100, 9250
Makes changes to certain provisions relating to the disposition of community and quasi-community property, the liability of personal representatives for failure to notify creditors of the administration of the estate, and requirements for notifying creditors of allowances or rejection of claims. Also deletes requirement that notice of administration be at least 60 days prior to a specified one-year statute of limitations for certain deadlines to apply for filing claims during the administration of estates.

ESTATES AND TRUSTS: JURY TRIAL: CONSERVATORS T
AB 239 KALOOGIAN, CH. 175
PRO 825, 2357, 2580, 7200, 17200
Specifies in statute that there is no right to a jury trial in proceedings under the Probate Code, except as otherwise expressly provided in the code. Requires additional information be included in a petition for court authorization of medical treatment for a ward or conservatee and revises notice requirements. Includes within the specified purposes for which a court may authorize or require a conservator to take a proposed action the exercise or surrender of the right of the conservatee to modify a revocable trust under specified conditions.

TRUSTS AND TRUSTEES: NONPROFIT CHARITABLE CORPORATIONS T
SB 1090 SCHIFF, CH. 424
PRO 2340 et seq., 15604
Permits a court to appoint a qualifying nonprofit charitable corporation to act as trustee or successor trustee of a trust under specified conditions. Requires a nonprofit charitable corporation that wishes to serve as a court-appointed trustee to register with the county clerk by filing specified information under penalty of perjury.

CONSERVATORSHIPS: STATEWIDE REGISTRY T
AB 925 HERTZBERG, CH. 409
PRO 2850 et seq.
Requires all persons who wish to or who currently serve as a conservator or guardian to register with the Statewide Registry. Requires the Department of Justice to maintain a Statewide Registry, to make all information in the registry available to the court for any purpose, and to make certain information available to the public on request. Prohibits a court from appointing a person as a conservator or guardian unless that person is registered with the Statewide Registry, except where circumstances and justice warrant otherwise. Requires a court clerk to forward a copy of any complaint filed with that court to the registry.

PROBATE COURTS; PUBLIC GUARDIAN; COMPENSATION T
AB 1152 ACKERMAN, CH. 866
PRO 2942
In determining the just and reasonable compensation of a public guardian from the estate of a ward or conservatee, requires the court to consider the actual costs of the services provided, the amount of the estate involved, the special value of services provided in relation to the estate, and whether the compensation requested might impose an economic hardship on the estate.

States that the bill does not require a public guardian to base a request for compensation upon an hourly rate.

STREETS AND HIGHWAYS CODE

HIGHWAYS: SAFETY ENHANCEMENT—DOUBLE FINE ZONES T

SB 155 KNIGHT, CH. 169
URGENCY, EFFECTIVE:
07-26-99

S&H 97; VEH 42010

Adds portions of State Highway Route 138 and Route 101 to the list of highway segments that have been designated as "Safety Enhancement—Double Fine Zones." Extends from January 1, 2000, to January 1, 2004, the existing six special traffic fine zones. Also extends the reporting date for the Department of Transportation study of the double fine zone pilot project until January 1, 2003, and requires that the report contain specific criteria for designation of a highway as a "Safety Enhancement—Double Fine Zone."

VEHICLE CODE

AUTOMOBILE LIABILITY INSURANCE: FINES T

SB 652 SPEIER, CH. 880
VEH 16028, 16029, 16030

Among other things, extends indefinitely the law that requires all drivers to maintain automobile liability insurance and to provide proof of financial responsibility to a peace officer during a traffic stop. Decreases the fines for a violation of this provision to a minimum of \$100 and a maximum of \$200 for a first offense. Additionally, decreases the fine for a subsequent conviction to a minimum of \$200 and a maximum of \$500. Requires the court to impose a fine that is greater than the minimum fine specified and prohibits the court from reducing that fine to the minimum authorized unless the defendant has presented to the court evidence of financial responsibility as defined. Specifically provides that the fine is mandatory upon conviction and may not be waived or suspended unless the court in its discretion reduces or waives the fine based on the defendant's ability to pay. Authorizes the court to order the defendant to maintain automobile insurance coverage satisfying the financial responsibility laws for at least one year from the date of the order. Makes it a crime for any person to provide a false self-insurer certificate as proof or evidence of financial responsibility.

This bill was tied to SB 171 (chapter 774, stats. of 1999) which establishes a pilot program for low-cost automobile insurance policies in Los Angeles, and SB 527 (chapter 807, stats. of 1999) which establishes a pilot program in San Francisco.

FORWARDING RECORDS: OFFENSES: ALCOHOLIC BEVERAGES T

AB 194 LONGVILLE, CH. 723
VEH 1803

Requires the court to forward to the Department of Motor Vehicles information on drivers arrested for possession of an open alcoholic beverage container in a motor vehicle.

VEHICLES: DRIVER'S LICENSE VIOLATIONS T

AB 1311 ROMERO, CH. 122
VEH 14601.9

With the approval of the county board of supervisors, authorizes the district attorney of the Counties of Alameda, Kern, Los Angeles, Orange, Placer, Sacramento, San Joaquin, San Luis Obispo, and Santa Barbara to establish a pilot diversion program for persons who plead guilty or no contest or are convicted of violations of specified provisions of driving on a suspended license. Sunsets in January 1, 2004.

RAILROAD CROSSING: INCREASED FINE T

AB 923 HERTZBERG, CH. 841
VEH 42001, 42001.16, 42007.4

Increases the combined fine and penalty assessments to \$270 for failing to stop at a railroad crossing. Requires that the first 30 percent of the fines be allocated to the transit district or, if none exists, to the county where the offense occurred. Authorizes a court in a county with a population greater than 500,000 to order any person convicted of specified infractions to attend a traffic school that offers rail transit safety as part of its curriculum.

WELFARE AND INSTITUTIONS CODE

DEPENDENT CHILDREN: TIMEFRAMES, CONFIDENTIALITY A,T

SB 518 SCHIFF, CH. 346
W&I 300.2; CCP 917.7

Shortens the time period of the stay of a judgment or order of the dependency court allowing removal of a minor from the state from 30 days to 7 days. States that confidentiality provisions are intended to protect the privacy rights of the child.

JUVENILE DEPENDENCY: SEXUAL ABUSE BY PARENT T

SB 208 POLANCO, CH. 417
URGENCY, EFFECTIVE:
09-16-99
W&I 355.1

Creates a presumption in dependency proceedings that a child before the dependency

court is at substantial risk of abuse or neglect if the parent or guardian is currently alleged to have committed, or previously was convicted of, sexual abuse. Expressly authorizes dependency courts to direct the mandatory child abuse reporting of a minor whom the court believes has been a victim of a criminal abuse or neglect.

DEPENDENT CHILDREN: STATUS REVIEW HEARINGS T

SB 1226 JOHANNESSEN, CH. 399
W&I 361.5

Provides that a parent's failure to make substantive progress in any court-ordered treatment program shall be prima facie evidence that return of a dependent child to the parent's custody would be detrimental. Provides that reunification services need not be provided when the services have been terminated in the case of a sibling or half-sibling for specified reasons.

DEPENDENT CHILDREN: FOSTER CARE: SIBLING GROUPS T

AB 740 STEINBERG, CH. 805
W&I 361.5, 366.21

Provides that a dependent child who is a member of a sibling group in which one of the siblings is under three years of age may receive child welfare services for only six months, or a longer period of time if the court makes specified findings at the six-month review hearing. Requires the court to consider specified factors in the social worker's report about a sibling group.

MINORS: OUT-OF-STATE PLACEMENTS T

AB 1659 ASSEMBLY COMMITTEE ON HUMAN SERVICES, CH. 881
URGENCY, EFFECTIVE:
10-10-99
W&I 361.21, 727.1; FAM 7911, 7911.1

Provides that the court shall not order the placement of a minor in an out-of-state group home unless it makes a finding that in-state facilities or programs are unavailable or inadequate to meet the needs of the minor.

JUVENILE DELINQUENCY AND DEPENDENCY: OUT-OF-HOME PLACEMENT T

AB 575 ARONER, CH. 997
W&I 366.23, 366.26, 706.6, 726.4, 727.2

Brings California into compliance with federal mandates of Title IV-E of the Social Security Act and the Adoption and Safe Families Act of 1997 for wards of the court who are in out-of-home care. Court-related provisions address numerous issues, including: adoption, out-of-home placement, status reviews, statements of finding, appointment of counsel, timeframes, and notice of hearings. Requires the Judicial Council to adopt rules of court, forms, and procedures.

JUVENILE DEPENDENCY: EDUCATION RECORDS AND PSYCHOTROPIC MEDICATIONS T

SB 543 BOWEN, CH. 552
W&I 369.5, 16010

Provides that parents who have lost custody of a child due to abuse or neglect cannot continue to authorize the administration of psychotropic medication for that child without a court order. Permits the court to authorize the administration of such medication without the parent's consent at the request of a physician. Requires the case plan for a child to include a summary of education and health records, and that the child's caretaker be provided a copy of the summary within 30 days of the initial placement into foster care and within 48 hours of any subsequent placement. Requires the child's caretaker to keep updated health and education information concerning the child and to provide the updated information to the child protective agency. Requires the Judicial Council to adopt forms.

DEPENDENT CHILDREN: CLAIMS AGAINST GOVERNMENT ENTITIES T

AB 118 WASHINGTON, CH. 620
W&I 396; GOV 911.4

Exempts from the time limit for filing a late claim against a government entity the time during which (1) a child is in the custody and control of the government entity, and (2) the public entity having custody and control has failed to make a mandated report of abuse. States legislative policy that foster care should be temporary.

YOUTHFUL OFFENDERS: TRIAL AS ADULTS: REVERSE REMAND T

SB 334 ALPERT, CH. 996
URGENCY, EFFECTIVE:
10-10-99
W&I 602.5, 725.1, 730.7, 827.1, 827.6

Provides that a minor 16 years of age or older shall be prosecuted in adult criminal court if the minor has been: (1) accused of committing murder in the first degree, attempted premeditated murder, an aggravated sex offense, an aggravated kidnapping, or any specified felony where a firearm was used and discharged; or (2) previously adjudicated as a ward of the court by committing any felony when 14 years of age or older. Enacts a reverse remand provision authorizing the court to impose, in certain circumstances, a juvenile disposition for a minor convicted after a direct file prosecution in adult criminal court. Provides that any minor who personally uses a firearm to commit a violent felony shall be placed in a juvenile hall, ranch, camp, or California Youth Authority facility, unless the court finds that the minor has a mental disorder requiring intensive treatment. Provides that a minor who is 14 years of

age or older and taken into custody for the possession of a firearm during the commission of a felony shall not be released until he or she is brought before a judicial officer. Requires the judicial officer to order an assessment of the minor’s mental health. Provides that the parents of minors released to home supervision must sign a document acknowledging the terms and conditions of release. Provides that crime victims have the right to present victim impact statements in all juvenile court hearings. Reorganizes existing provisions regarding closed hearings. Requires the juvenile court to make written findings if it orders to be kept confidential the name or the records of specified proceedings. Requires daily posting of hearings open to the public.

SEXUALLY VIOLENT PREDATORS: JUVENILE COURT PRIOR ADJUDICATION

T

SB 746 SCHIFF, CH. 995
W&I 6600, 727.2

Allows the use of one of the two forcible sex offenses necessary to render a prison inmate eligible for commitment as a

sexually violent predator to be a juvenile adjudication for such an offense.

JUVENILE COURT RECORDS: SEALING AND DESTRUCTION

T

AB 744 McCLINTOCK, CH. 167
W&I 781.5

Requires the sealing of a minor’s record of detention, arrest, or citation where no accusatory pleading is filed or sustained, upon a determination by law enforcement, probation, or the court on hearing or motion, that the minor is factually innocent. Such records shall be sealed for three years and then destroyed, except where a civil action has been filed concerning the detention, arrest, or citation, in which case the records shall not be destroyed until final resolution of the action. Requires the court to give the minor copies of court orders directing sealing or destruction of such records.

JUVENILE COURT RECORDS: CONFIDENTIALITY

T

SB 199 POLANCO, CH. 984
W&I 827

Enacts the Lance Helms Law of Confidentiality, which would

generally require the court, after a hearing on a noticed petition, to provide access to a juvenile case file if a child is deceased. Requires, however, that identifying information regarding siblings and half-siblings be redacted from the record. The court would prohibit or limit disclosure only if it finds that disclosure would be detrimental to the protection, safety, and well-being of the sibling or half-sibling.

YOUTH AUTHORITY: PURPOSE

T

AB 637 MIGDEN, CH. 333
W&I 1700

Revises the purposes of provisions governing the commitment of juvenile offenders to the California Youth Authority by substituting community restoration, victim restoration, and offender training and treatment for retributive punishment.

SEXUALLY VIOLENT PREDATORS

T

SB 11 SCHIFF, CH. 136
URGENCY, EFFECTIVE: 07-22-99
W&I 6601, 6601.1

Provides that a petition to have an offender declared to be a sexually violent predator shall not be dismissed on the basis of

a later judicial or administrative determination that the offender’s custody was unlawful as the result of a good faith mistake of fact or law. Applies to any petition filed on or after January 1, 1996.

DEPENDENT CHILDREN: PROGRAM GOALS

T

SB 955 ESCUTIA, CH. 634
W&I 11462.07, 16500.1

States the Legislature’s intent and sets forth goals to better serve the needs of dependent children. Requires the state Department of Social Services to use new approaches to child protection in the areas of education, foster care, case planning, licensing requirements, training for foster parents, and placement resources. Requires the department to consider using “wrap-around services” such as family conferencing, team decision making in case planning, and community-based placement practices. Requires the department to report to the Legislature on or before January 1, 2002.

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